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August 30, 2010

BY HAND DELIVERY

Ms. Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20423

ENTERED
Office of Proceedings
AUG 30 2010
Part of
Public Record

Re: STB Finance Docket No. 35408, Stillwater Central Railroad, Inc. –
Amendment of Trackage Rights Exemption – BNSF Railway
Company

Dear Ms. Brown:

Attached for filing with the Board please find the original and ten copies of the Verified Notice of Exemption pursuant to the provisions of 49 C.F.R. § 1180.2(d)(7) covering the amendment of a trackage rights agreement. Enclosed is a check in the amount of \$1,300 to cover the filing fee.

Also attached is a Disc containing the Notice of Exemption and Summary.

Please time and date stamp the extra copy of the Notice and return it with our messenger.

Respectfully submitted,

Karl Morell

Enclosure

BEFORE THE
SURFACE TRANSPORTATION BOARD

STB FINANCE DOCKET NO. 35408

STILLWATER CENTRAL RAILROAD, INC.
-- AMENDMENT OF TRACKAGE RIGHTS EXEMPTION --
BNSF RAILWAY COMPANY

VERIFIED NOTICE OF EXEMPTION
Pursuant to 49 C.F.R. § 1180.2(d)(7)



FILED

AUG 30 2010

**SURFACE
TRANSPORTATION BOARD**

FEE RECEIVED
AUG 30 2010
**SURFACE
TRANSPORTATION BOARD**

Karl Morell
Of Counsel
Ball Janik LLP
Suite 225
1455 F Street, N.W.
Washington, D.C. 20005
(202) 638-3307

Attorney for:
STILLWATER CENTRAL
RAILROAD, INC.

ENTERED
Office of Proceedings

AUG 30 2010

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Public Record

Dated: August 30, 2010

BEFORE THE
SURFACE TRANSPORTATION BOARD

STB FINANCE DOCKET NO. 35408

STILLWATER CENTRAL RAILROAD, INC.
-- AMENDMENT OF TRACKAGE RIGHTS EXEMPTION --
BNSF RAILWAY COMPANY

VERIFIED NOTICE OF EXEMPTION
Pursuant to 49 C.F.R. § 1180.2(d)(7)

Stillwater Central Railroad, Inc. ("SLWC"), submits this Notice of Exemption pursuant to the class exemption at 49 C.F.R. § 1180.2(d)(7), for an amendment of an overhead trackage rights agreement ("Original Agreement") over a rail line owned by BNSF Railway Company ("BNSF") in Oklahoma City, OK.

The amended trackage rights are based on a written agreement and are not sought in a responsive application in a rail consolidation proceeding.

Pursuant to the Surface Transportation Board's regulations at 49 C.F.R. § 1180.4(g), SLWC submits the following information:

Section 1180.6 Supporting Information

(a)(1)(i) Description of Proposed Transaction

In STB Finance Docket No. 34610, *Stillwater Central Railroad, Inc. - Lease Exemption - The Burlington Northern and Santa Fe Railway Company* (not printed), served January 19, 2005, SLWC leased certain rail lines from BNSF. As part of the overall transaction, SLWC also

acquire incidental overhead trackage rights between: (1) milepost 384.6 and milepost 390.0, on the Red Rock Subdivision, in Oklahoma City; and (2) a point 500 feet west of the wye connecting the Packing Town Lead and the point of connection between the Packing Town Lead and BNSF's Red Rock Subdivision. The First Amendment To Original Trackage Rights Agreement ("First Amendment") grants SLWC: (1) overhead trackage rights between milepost 383.0, at Oklahoma City, OK, and milepost 394.5, south of Flynn Yard in Oklahoma City, including the wye connecting the east end of the Packing Town Lead to the Red Rock Subdivision; and (2) local trackage rights to serve the Cargill Animal Nutrition facility (the "Cargill Facility") on the Packing Town Lead using tracks 7405-0801 and 7405-0802.

Name and address of tenant railroad:

Stillwater Central Railroad, Inc.
315 W. 3rd Street
Pittsburg, Kansas 66762

Questions regarding this transaction are to be addressed to SLWC's counsel:

Karl Morell
Of Counsel
Ball Janik LLP
Suite 225
1455 F Street, N.W.
Washington, DC 20005
(202) 638-3307

(a)(1)(ii) Consummation Date

The amended trackage rights will be consummated on the effective date of this Notice of Exemption.

(a)(1)(iii) Purpose Sought to be Accomplished

The First Amendment will permit SLWC to provide local service to the Cargill Facility. The First Amendment also corrects a minor typographical error in the Original Agreement. In addition, this filing corrects an inadvertent misdescription of the trackage rights mileposts set forth in SLWC's notice of exemption in STB Finance Docket No. 34610.

(a)(5) List of States in which the Party's Property is Situated

SLWC operates in the State of Oklahoma. The involved trackage rights are located in the State of Oklahoma.

(a)(6) Map

A map illustrating the trackage rights is attached as Exhibit A.

(a)(7)(ii) Agreement

A copy of the First Amendment is attached as Exhibit B.

Interchange Commitments

Neither the Original Agreement nor the First Amendment contains a provision prohibiting the interchange of traffic with a third party.

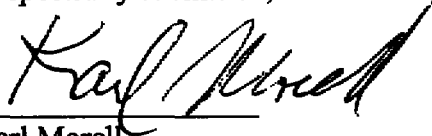
Labor Protection

SLWC is agreeable to the labor protection conditions generally imposed in trackage rights proceedings as found in Norfolk and Western Ry. Co. – Trackage Rights – BN, 354 I.C.C. 605 (1878), as modified by Mendocino Coast Ry., Inc. – Lease and Operate, 360 I.C.C. 653 (1980).

Environmental and Historic Matters

Environmental and historical impacts associated with trackage rights transactions generally are considered to be insignificant. Therefore, an environmental and historical report and documentation normally need not be submitted for this type of transaction, pursuant to 49 C.F.R §§ 1105.6(c)(4) and .8(b)(3).

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Karl Morell', written over a horizontal line.

Karl Morell
Of Counsel
Ball Janik LLP
Suite 225
1455 F Street, N.W.
Washington, D.C. 20005
(202) 638-3307

Attorney for:
STILLWATER CENTRAL
RAILROAD, INC.

Dated: August 30, 2010

SURFACE TRANSPORTATION BOARD

NOTICE OF EXEMPTION

STB FINANCE DOCKET NO. 35408

**STILLWATER CENTRAL RAILROAD, INC.
-- AMENDMENT OF TRackage RIGHTS EXEMPTION --
BNSF RAILWAY COMPANY**

BNSF Railway Company has agreed to amend a grant of trackage rights to Stillwater Central Railroad, Inc. (SLWC). As amended, SLWC will have: (1) overhead trackage rights between milepost 383.0, at Oklahoma City, OK, and milepost 394.5, south of Flynn Yard in Oklahoma City, including the wye connecting the east end of the Packing Town Lead to the Red Rock Subdivision; and (2) local trackage rights to serve the Cargill Animal Nutrition facility on the Packing Town Lead using tracks 7405-0801 and 7405-0802.

The amended trackage rights will be consummated on or after September 29, 2010.

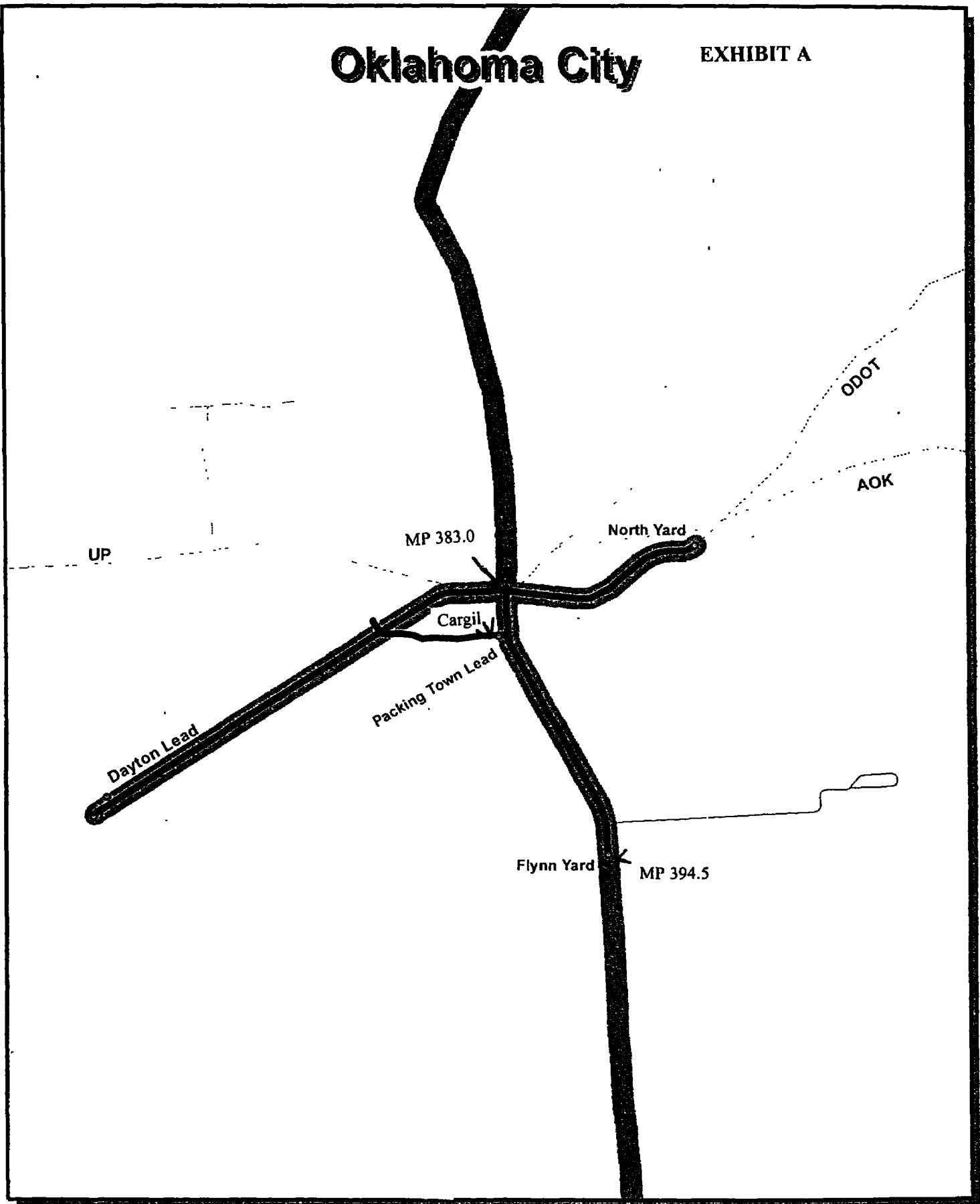
This notice is filed under 49 C.F.R. § 1180.2(d)(7). Petitions to revoke the exemption under 49 U.S.C. § 10502(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction.

Dated:

By the Board,

Oklahoma City

EXHIBIT A



FIRST AMENDMENT TO ORIGINAL TRACKAGE RIGHTS AGREEMENT

THIS FIRST AMENDMENT TO ORIGINAL TRACKAGE RIGHTS AGREEMENT ("**First Amendment**") is made to be effective as of _____, 2010 (the "**Effective Date**") by and between **BNSF RAILWAY COMPANY** (formerly known as The Burlington Northern and Santa Fe Railway Company), a Delaware corporation, ("**BNSF**") and **STILLWATER CENTRAL RAILROAD, INC.**, an Oklahoma corporation ("**SLWC**"). BNSF and SLWC are sometimes referred to individually herein as a "**Party**" and together as the "**Parties**".

RECITALS

A. The Parties entered into that certain agreement dated effective December 29, 2004 ("**Original Agreement**"), whereby BNSF granted certain trackage rights to SLWC, all as further described in the Original Agreement.

B. The Parties wish to amend the Original Agreement as set forth below. The Original Agreement, as modified by this First Amendment, shall be referred to herein as the "**Trackage Rights Agreement**".

AGREEMENTS

In consideration of the premises, covenants and considerations set forth herein, the Parties hereto agree as follows:

1. **NAME OF BNSF.** Throughout the Trackage Rights Agreement, the name of BNSF is hereby changed from "The Burlington Northern and Santa Fe Railway Company" to "BNSF Railway Company".
2. **GRANT OF OVERHEAD TRACKAGE RIGHTS.** Section 1 of the Original Agreement is amended to read as follows:

1.1 Owner grants unto User the right to utilize certain trackage between Milepost 383.0 at Oklahoma City to Milepost 394.5 south of Flynn Yard in Oklahoma City including the wye connecting the east end of the Packing Town Lead to the Red Rock Subdivision (hereinafter referred to as Joint Trackage and identified in Exhibit B-1 hereto), for the sole and exclusive purpose of moving trains and equipment of User over the Joint Trackage.

1.2 The General Conditions covering the grant of trackage rights are set forth in Exhibit B-2. If any conflict between Exhibit B-2 and the main body of this agreement shall arise, the provisions of the main body of this agreement shall govern. Subject to the terms and conditions contained herein, Owner grants unto User the nonexclusive right to use the Joint Trackage for the limited operation of User's trains, locomotives, cabooses and cars with User's own employees and equipment in User's account over the Joint Trackage in common with Owner, it being understood and agreed that User shall not have the right to:

- A. Set out, pick up or store cars, or switch industries upon the Joint Trackage or any part thereof, except as necessary for handling locomotives, cabooses or cars bad ordered enroute; or
- B. Serve any industry, team or house track now existing or hereafter located along or which may become connected to the Joint Trackage; or
- C. Permit or admit any third party to the use of all or any portion of the Joint Trackage, nor under the guise of doing its own business, contract or make any agreement to handle as its own trains, locomotives, cabooses or cars over or upon the Joint Trackage or any portion thereof, the trains, locomotives, cabooses or cars of any such third party which in the normal course of business would not be considered the trains, locomotives, cabooses or cars of User; provided, however, that the foregoing shall not prevent User, pursuant to a run-through agreement with any railroad from using the locomotives of another railroad as its own under this agreement.

1.3 Notwithstanding the foregoing or anything to the contrary herein, Owner grants unto User the non-exclusive right to provide local service to Cargill Animal Nutrition ("**Cargill**") located adjacent to the Joint Trackage, as more fully described in Exhibits A and A-1 attached hereto (the "**Cargill Facility**"). All local service permitted to be performed by User pursuant to this Section 1.3 shall be referred to collectively herein as the "**Cargill Service**". The Parties agree that the Cargill Service shall take place on the following designated tracks: 7405-0801; and 7405-0802, located at Oklahoma City, Oklahoma or such other location as may be mutually agreed upon in writing between the parties (collectively, the "**Cargill Service Tracks**"). User shall only use the Cargill Service Tracks for the Cargill Service and shall not use the Cargill Service Tracks for any other purpose. Owner reserves the right to use the Cargill Service Tracks for any purpose whatsoever, and Owner's use of such tracks shall have priority over SLWC's use thereof. In connection with the Cargill Service, User shall, at its own cost and expense, initiate by appropriate application or petition, upon Owner's prior review and approval in writing of such application or petition, and thereafter diligently prosecute to completion proceedings for the procurement of all necessary consent, approval, or authority from the Surface Transportation Board or any other governmental agency for the sanction of the Cargill Service.

3. INSURANCE.

3.1 The last paragraph of Section 7(C) of the Original Agreement is hereby deleted and replaced with the following:

For purposes of this section, BNSF shall mean and include "Burlington Northern Santa Fe, LLC", "BNSF Railway Company" and the subsidiaries, successors, assigns and affiliates of each.

3.2 SLWC agrees to promptly make such changes in its insurance coverage as to comply with the change reflected in **Paragraph 3.1** above.

4. MISCELLANEOUS.

4.1 Unless otherwise provided herein, all capitalized and/or defined terms herein shall have the same meaning given to such capitalized and/or defined terms in the Trackage Rights Agreement.

4.2 Except as amended hereby, all of the terms and provisions of the Original Agreement are hereby reaffirmed and remain in full force and effect. In the event there is a conflict between the terms and provisions of the Original Agreement and the terms and provisions of this First Amendment, the terms and provisions of this First Amendment shall control.

4.3 This First Amendment (i) shall be binding upon and inure to the benefit of BNSF and SLWC and their respective legal representatives, heirs, successors and assigns; (ii) may be modified or amended only by a writing signed by each Party hereto; and (iii) may be executed in multiple counterparts, each of which shall, for all purposes, be deemed an original but which together shall constitute one and the same instrument, and the signature pages from any counterpart may be appended to any other counterpart to assemble fully executed documents, and counterparts of this First Amendment may also be exchanged via electronic facsimile machines and any electronic facsimile of any Party's signature shall be deemed to be an original signature for all purposes.

5. TERM OF FIRST AMENDMENT.

The terms of this First Amendment shall apply from and after the Effective Date until expiration or termination of the Original Agreement. Upon expiration of the Trackage Rights Agreement, SLWC shall relinquish all trackage rights granted herein and immediately surrender possession of the Joint Trackage. Where applicable, SLWC shall fully cooperate, consent, and participate with BNSF and file to obtain from the Surface Transportation Board or other regulatory body having jurisdiction thereover authority to terminate and discontinue the overhead rights granted herein in accordance with the terms of the Trackage Rights Agreement. Where requested in writing by BNSF, SLWC shall assist and support BNSF's filing and any associated proceedings, which shall include without limitation, furnishing information and executing and delivering any written instruments necessary to obtain such governmental authority. Without prejudice to any other rights or remedies available at law or in equity, the parties agree that BNSF shall have rights of specific performance to enforce the terms of this Section.

6. HIGH RISK COMMODITIES AND POSITIVE TRAIN CONTROL

The rights granted to SLWC under this First Amendment do not include the movement of rail security-sensitive materials (as such term is defined in 49 CFR Part 1580, as amended, supplemented or replaced), toxic inhalation hazards, poisonous inhalation hazards or any other commodity (hereinafter referred to collectively as, "High Risk Commodities") that would qualify the trackage rights for the installation of positive train control under applicable law. SLWC hereby (i) represents and warrants that it shall not use the rights granted to SLWC under this First Amendment for the movement of High Risk Commodities, and (ii) agrees to indemnify, defend and hold harmless BNSF from any claims, demands, expenses, costs, judgments, penalties, fees and or liability arising from SLWC's breach of such representation and warranty.

IN WITNESS WHEREOF, the Parties have executed this First Amendment as of the date below each Party's signature; to be effective, however, as of the Effective Date above.

ACCEPTED AND AGREED:

BNSF:

BNSF Railway Company, a Delaware corporation

By: _____

Name: _____

Title: _____

Date: _____

STILLWATER:

Stillwater Central Railroad, Inc., an Oklahoma corporation

By: _____

Name: _____

Title: _____

Date: _____

VERIFICATION

STATE OF KANSAS

)

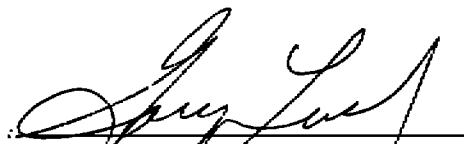
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ss.

COUNTY OF CRAWFORD

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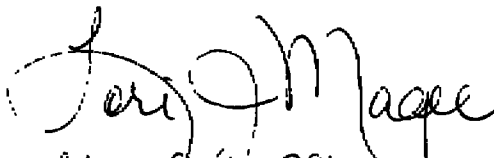
I, Gary Lundy, being duly sworn depose and state that I am Executive Vice President of Stillwater Central Railroad, Inc., that I am authorized to make this verification, and that I have read the foregoing Notice of Exemption and know the facts asserted therein are true and accurate as stated to the best of my knowledge, information, and belief.



Gary Lundy

SUBSCRIBED AND SWORN TO before me this 26th day of August, 2010, in the County of Crawford, State of Kansas.




exp. 8-16 2012